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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,117	08/09/2001	Robert Briggs Phillips	VTN-0549	2698
27777	7590	12/01/2004	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			PICKETT, JOHN G	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/925,117

Applicant(s)

PHILLIPS ET AL.

Examiner

Gregory Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5 October 2004 has been entered.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 1-7 and 10-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al (US 6,082,533) in view of Ingemann (US 4,529,100).

Regarding claim 1, Smith et al discloses (Figures 5 and 6) a disposable contact lens package (300) with a raised seal volume (310), base (312), top surface (371), perimeter top surface (370), and recessed well (314). Package (300) is sealed with lidstock (Col. 3, ll. 4-9). Smith et al discloses raised surface (310) as arcuate in shape to prevent the collection of aqueous fluid on its surface (Col. 3, ll. 9-12). Smith et al discloses the claimed invention except for two linear sides intersecting the horizontal plane at angles having values from 125 to 170 degrees.

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Ingemann discloses that it was known in the art at the time the invention was made to use a raised seal volume with linear sides for the provision of a weld point for a heat sealing operation. One of ordinary skill in the art would have recognized that the linear sides would have performed the same function of moving fluids from the surface of the raised surface. Further, based on the elementary geometric principal that the shortest distance between two points is a straight line (which would have been within the knowledge generally available to one of ordinary skill in the art), one of ordinary skill would have recognized that the linear sides would move the fluid away from the top more quickly than the curved sides of Smith et al. Therefore, because these two geometric configurations were art recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute linear sides of Ingemann for arcuate sides of Smith et al in order to increase the fluid-moving speed of the configuration.

As to the angles having values from 125 to 170 degrees, Ingemann discloses the claimed angles (see Figure 1a).

As to claims 2, 3, 5-7, and 10-17, the package of Smith-Ingemann, as applied to claim 1 above discloses the claimed invention except for the specific dimensions claimed by the applicant. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the package of Smith-Ingemann with dimensions as claimed by the applicant, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

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As to claim 4, Smith-Ingemann discloses raised seal volume (310) located 0.2 mm from the perimeter of the well (Smith, Col. 2, ll. 66-67).

As to claims 18 and 22, Smith-Ingemann discloses rounded surfaces (Smith 360) at the peak of the raised seal volume.

As to claims 19-21, the package of Smith-Ingemann, as applied to claims 1, 17, and 18 above discloses the claimed inventions except for the specific radii claimed by the applicant. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the package of Smith-Ingemann with radii as claimed by the applicant, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

4. Claims 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith-Ingemann as applied to claims 1 and 6 above, and further in view of Lust et al (5,704,468) or Abrams et al (US 5,467,868).

The package of Smith-Ingemann, as applied to claims 1 and 6 above discloses the claimed inventions except for the specific distances claimed by the applicant. Both Lust et al (Figures 4, 8, and 13) and Abrams et al (Figure 3) disclose that it was known in the art at the time the invention was made to place the raised seal volume at a distance from the perimeter of the well. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the package of Smith-Ingemann with distances as claimed by the applicant, since it has been held that

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discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### ***Response to Arguments***

5. Applicant's arguments, see page 7, filed 5 October 2004, with respect to the rejection(s) of claim(s) 1-7 and 10-22 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art Ingemann (US 4,529,100).

### ***Conclusion***


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sugiyama et al discloses a raised volume for a weld joint in a heat-sealing operation.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Greg Pickett  
Examiner  
24 November 2004

  
Mickey Yu  
Supervisory Patent Examiner  
Group 3700